

DAC 8

PATENT

Attorney Docket No.: 16529-2-2US

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to:  
Assistant Commissioner for Patents,  
Box DAC, Washington, D.C. 20231,

on April 27, 1999

# 10

TOWNSEND and TOWNSEND and CREW LLP

By: Jennifer Allen

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Michael Sutton

Application No.: 09/050,796

Filed: March 30, 1998

For: VIDEO AND FLASHLIGHT  
CAMERA

Examiner: Unassigned

Art Unit: 2744

PETITION TO REVIVE UNAVOIDABLY  
ABANDONED APPLICATION

RECEIVED

MAY 07 1999

OFFICE OF PETITIONS  
DEPUTY A/C PATENTS

Box DAC  
Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

Applicant petitions to revive the above-identified U.S. patent application under 37 C.F.R. §1.137(a). A Notice of Abandonment under 37 C.F.R. §1.821(g) was mailed by the U.S. Patent Office on April 20, 1999. Applicant respectfully submits that this Notice of Abandonment was mailed in error, and that the case should not now be abandoned. Hence, the entire delay, including the delay from the date of the discovery of the abandonment of the application through the date of this Petition, was unavoidable.

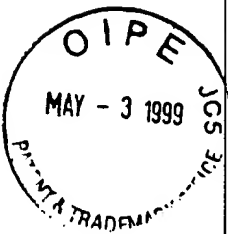
Authorization for payment of the Petition fee under 37 C.F.R. §1.17(l) is filed herewith. Documents attached as appendices A-D establish that any delay in prosecution was unavoidable, and that Applicant has not abandoned the application, as follows:

Applicant originally filed the present patent application on March 30, 1998.

This application was filed without the application fee, so that a Notice to File Missing Parts

05/05/1999 MBLANCO 00000100 201430 09050796

01 FC:240 \$5.00 CH



Application No.: 09/050,796  
Page 2

was properly mailed by the U.S. Patent Office on November 6, 1998. The Notice to File Missing Parts is attached as Appendix A.

In response to the Notice to File Missing Parts, Applicant timely filed a Response to Notice of Missing Parts and Petition to Extend Time for three months on April 6, 1999. The Response to Notice of Missing Parts and Petition to Extend Time are attached as Appendix B.

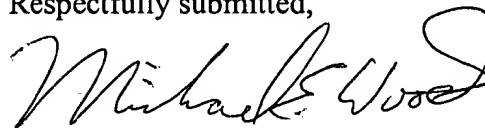
Applicant received the postcard bearing the U.S. Patent Office date of receipt of April 12, 1999 attached as Appendix C.

The U.S. Patent Office mailed a Notice of Abandonment under 37 C.F.R. §1.53(f) or (g), as attached as Appendix D. Applicant submits that this Notice of Abandonment was sent in error, and the present application should not be considered abandoned at this time.

If the application is considered abandoned, Applicant requests that the application be revived. Applicant notes that the Notice of Abandonment was received on April 22, 1999 by Applicant's attorney, and that the present Petition has been filed within one week of that date. Thus, the present Petition has been promptly filed after Applicant was notified of the abandonment. As the attached documents show that the entire delay in prosecution of this application has been caused by a Patent Office error, the entire delay has been unavoidable.

Please deduct the petition fee, pursuant to 37 CFR §1.17(k), of \$55.00 from the Deposit Account No. 20-1430 of the undersigned. Please charge any additional fees or credit overpayment to the above Deposit Account. This Petition is submitted in triplicate.

Respectfully submitted,



Michael E. Woods  
Reg. No. 33,466

TOWNSEND and TOWNSEND and CREW LLP  
Two Embarcadero Center, 8th Floor  
San Francisco, California 94111-3834  
(415) 576-0200/Fax (415) 576-0300  
MEW/jal



UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

016529-00022045

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO./TITLE
09/050,796	03/30/98	SUTTON	M 16529-2-2US

MICHAEL E WOODS  
TOWNSEND & TOWNSEND & CREW  
TWO EMBARCADERO CENTER  
8TH FLOOR  
SAN FRANCISCO CA 94111

0242/1106

NOT ASSIGNED

2744

DATE MAILED:

11/06/98

**Response Due**

**NOTICE TO FILE MISSING PARTS OF APPLICATION**  
**Filing Date Granted**

An Application Number and Filing Date have been assigned to this application. The items indicated below, however, are missing. Applicant is given TWO MONTHS FROM THE DATE OF THIS NOTICE within which to file all required items and pay fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a). If any of items 1 or 3 through 5 are indicated as missing, the SURCHARGE set forth in 37 CFR 1.16(e) of \$65.00 for a small entity in compliance with 37 CFR 1.27, or \$130.00 for a non-small entity, must also be timely submitted in reply to this NOTICE to avoid abandonment.

If all required items on this form are filed within the period set above, the total amount owed by applicant as a  
☒ small entity (statement filed) ☐ non-small entity is \$ 501.00.

☒ 1. The statutory basic filing fee is:

- ☒ missing.  
☐ insufficient.

Applicant must submit \$ 395.00 to complete the basic filing fee and/or file a small entity statement claiming such status (37 CFR 1.27).

☒ 2. Additional claim fees of \$ 41.00, including any multiple dependent claim fees, are required.

\$ 41.00 for 1 independent claims over 3.

\$ \_\_\_\_\_ for \_\_\_\_\_ dependent claims over 20.

\$ \_\_\_\_\_ for multiple dependent claim surcharge.

Applicant must either submit the additional claim fees or cancel additional claims for which fees are due.

☐ 3. The oath or declaration:

- ☐ is missing or unexecuted.  
☐ does not cover the newly submitted items.  
☐ does not identify the application to which it applies.  
☐ does not include the city and state or foreign country of applicant's residence.

An oath or declaration in compliance with 37 CFR 1.63, including residence information and identifying the application by the above Application Number and Filing Date is required.

☐ 4. The signature(s) to the oath or declaration is/are by a person other than inventor or person qualified under 37 CFR 1.42, 1.43 or 1.47.

A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.

☐ 5. The signature of the following joint inventor(s) is missing from the oath or declaration:

An oath or declaration in compliance with 37 CFR 1.63 listing the names of all inventors and signed by the omitted inventor(s), identifying this application by the above Application Number and Filing Date, is required.

☐ 6. A \$50.00 processing fee is required since your check was returned without payment (37 CFR 1.21(m)).

☐ 7. Your filing receipt was mailed in error because your check was returned without payment.

☐ 8. The application does not comply with the Sequence Rules.  
See attached "Notice to Comply with Sequence Rules 37 CFR 1.821-1.825."

☐ 9. OTHER:

Direct the reply and any questions about this notice to "Attention: Box Missing Parts."

**A copy of this notice MUST be returned with the reply.**

A. Desperth  
Customer Service Center  
Initial Patent Examination Division (703) 308-1202

PART 1 - ATTORNEY/APPLICANT COPY

EXHIBIT

**A**

TO THE U.S. PATENT & TRADEMARK OFFICE  
Please stamp the date of receipt of the following document(s)  
and return this card to us:

RE: Michael Sutton

TITLE OF DOCUMENT(S): Transmittal Letter - Response to Notice  
of Missing Parts (orig. + 2) w/Petition to Extend Time for  
3 months (orig. + 2) and a copy of Notice of Missing Parts

Application No. 09/050,796

File No. 16529-2-2US

Date Due April 6, 1999

Date Mailed April 6, 1999

Atty/Secty. MEW/jal

EXHIBIT

6

TO THE U.S. PATENT & TRADEMARK OFFICE  
Please stamp the date of receipt of the following document(s)  
and return this card to us:

RE: Michael Sutton

TITLE OF DOCUMENT(S): Transmittal Letter - Response to Notice  
of Missing Parts (orig. + 2) w/Petition to Extend Time for  
3 months (orig. + 2) and a copy of Notice of Missing Parts

Application No. 09/050,796

File No. 16529-2-ZUS

Date Due April 6, 1999

Date Mailed April 6, 1999

Atty/Secty. MEW/jal

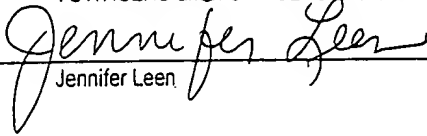
I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to:  
Assistant Commissioner for Patents,  
Attn: Box Missing Parts,  
Washington, D.C. 20231, on April 6, 1999

PATENT

Attorney Docket No. 16529-2-2US

TOWNSEND and TOWNSEND and CREW LLP

By

  
Jennifer Leen

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Michael Sutton

Application No.: 09/050,796

Filed: March 30, 1998

For: VIDEO AND FLASHLIGHT  
CAMERA

Examiner: Unassigned

Art Unit: 2744

TRANSMITTAL LETTER - RESPONSE  
TO NOTICE OF MISSING PARTS

Attn: Box Missing Parts  
Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

Pursuant to the Notice to File Missing Parts of Application - Filing Date Granted dated November 6, 1998, enclosed are the following to be made of record in the above-identified application:

- 1) Petition to Extend Time for 3 Months (original + 2)
- 2) Copy of Notice of Missing Parts

Michael Sutton  
Application No.: 09/050,796  
Page 2

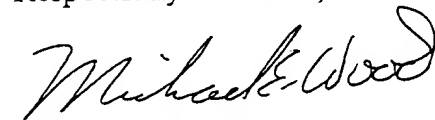
Please charge Deposit Account No. 20-1430 for the following fees:

Small entity: (a)	Filing Fee (§ 1.16(a)) (Small Entity)	\$ 380.00
(b)	Excess Claims Fees (§ 1.16(b), (c)):	
	4 - 3 = 1 x \$39.00 =	\$39.00
(c)	Missing Parts Surcharge	\$65.00

<b>TOTAL FEES TO BE CHARGED</b>	<b>\$484.00</b>
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The Commissioner is hereby authorized to charge any additional fees associated with this paper or during the pendency of this application, or credit any overpayment, to Deposit Account No. 20-1430. This Transmittal Letter is submitted in triplicate.

Respectfully submitted,

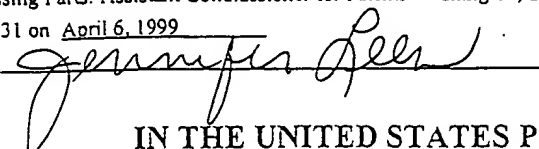


Michael E. Woods  
Reg. No. 33, 466

TOWNSEND and TOWNSEND and CREW LLP  
Two Embarcadero Center, 8th Floor  
San Francisco, California 94111-3834  
(415) 576-0200  
Fax (415) 576-0300  
MEW/jal :  
SF 210068 v1

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Box Missing Parts: Assistant Commissioner for Patents Washington, D.C. 20231 on April 6, 1999

By:



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

PATENT

Attorney Docket No.: 16529-2-2US

In re application of:

Michael Sutton

Application No.: 09/050,796

Filed: March 30, 1998

For: VIDEO AND FLASHLIGHT  
CAMERA

Examiner: Unassigned

Art Unit: 2744

PETITION TO EXTEND TIME

Box Missing Parts, Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

Applicant petitions the Assistant Commissioner of Patents to extend the time for response to the Notice to File Missing Parts of Application - Filing Date Granted dated November 6, 1998 for three (3) months, from January 6, 1999 to April 6, 1999. An appropriate response in the form of a Response to Notice of Missing Parts is enclosed herewith.

Please charge the fee of \$435.00 to the undersigned's Deposit Account No. 20-1430. Please charge any additional fees or credit overpayment to the above deposit account. This petition is submitted in triplicate.

Respectfully submitted,



Michael E. Woods  
Reg. No. 33,466

TOWNSEND and TOWNSEND and CREW LLP  
Two Embarcadero Center, 8<sup>th</sup> Floor  
San Francisco, California 94111-3834  
Tel: (415) 576-0200/Fax: (415) 576-0300  
MEW/jal  
SF 210074 v1





UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO./TITLE
09/050,796	03/30/98	SUTTON	M 16529-2-206

MICHAEL E. WOODS  
TOWNSEND & TOWNSEND & CREW  
TWO EMBARCADERO CENTER  
8TH FLOOR  
SAN FRANCISCO CA 94111

0242/1106

NOT ASSIGNED

2744

DATE MAILED:

11/06/98

**NOTICE TO FILE MISSING PARTS OF APPLICATION**  
**Filing Date Granted**

An Application Number and Filing Date have been assigned to this application. The items indicated below, however, are missing. Applicant is given TWO MONTHS FROM THE DATE OF THIS NOTICE within which to file all required items and pay fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a). If any of items 1 or 3 through 5 are indicated as missing, the SURCHARGE set forth in 37 CFR 1.16(e) of \$65.00 for a small entity in compliance with 37 CFR 1.27, or ☐ \$130.00 for a non-small entity, must also be timely submitted in reply to this NOTICE to avoid abandonment.

If all required items on this form are filed within the period set above, the total amount owed by applicant as a ☒ small entity (statement filed) ☐ non-small entity is \$ 501.00.

☒ 1. The statutory basic filing fee is:

- ☒ missing.  
☐ insufficient.

Applicant must submit \$ 395.00 to complete the basic filing fee and/or file a small entity statement claiming such status (37 CFR 1.27).

☒ 2. Additional claim fees of \$ 41.00, including any multiple dependent claim fees, are required.

\$ 41.00 for 1 independent claims over 3.

\$ \_\_\_\_\_ for \_\_\_\_\_ dependent claims over 20.

\$ \_\_\_\_\_ for multiple dependent claim surcharge.

Applicant must either submit the additional claim fees or cancel additional claims for which fees are due.

☐ 3. The oath or declaration:

- ☐ is missing or unexecuted.  
☐ does not cover the newly submitted items.  
☐ does not identify the application to which it applies.  
☐ does not include the city and state or foreign country of applicant's residence.

An oath or declaration in compliance with 37 CFR 1.63, including residence information and identifying the application by the above Application Number and Filing Date is required.

☐ 4. The signature(s) to the oath or declaration is/are by a person other than inventor or person qualified under 37 CFR 1.42, 1.43 or 1.47.

A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.

☐ 5. The signature of the following joint inventor(s) is missing from the oath or declaration:

An oath or declaration in compliance with 37 CFR 1.63 listing the names of all inventors and signed by the omitted inventor(s), identifying this application by the above Application Number and Filing Date, is required.

- ☐ 6. A \$50.00 processing fee is required since your check was returned without payment (37 CFR 1.21(m)).  
☐ 7. Your filing receipt was mailed in error because your check was returned without payment.  
☐ 8. The application does not comply with the Sequence Rules.  
See attached "Notice to Comply with Sequence Rules 37 CFR 1.821-1.825."  
☐ 9. OTHER: \_\_\_\_\_

Direct the reply and any questions about this notice to "Attention: Box Missing Parts."

**A copy of this notice MUST be returned with the reply.**

A. Desperth  
Customer Service Center  
Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE

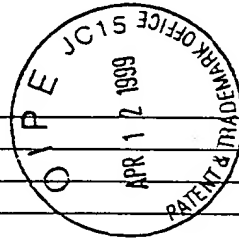
TO THE U.S. PATENT & TRADEMARK OFFICE

Please stamp the date of receipt of the following document(s)  
and return this card to us:

RE: Michael Sutton

TITLE OF DOCUMENT(S): Transmittal Letter - Response to Notice  
of Missing Parts (orig. + 2) w/Petition to Extend Time for  
3 months (orig. + 2) and a copy of Notice of Missing Parts

Application No. 09/050,796  
File No. 16529-2-2US  
Date Due April 6, 1999  
Date Mailed April 6, 1999  
Atty/Secty. MEW/jal



EXHIBIT

C



0-16524-00022045  
UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

M. Woods

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO./TITLE
09/050,796	03/30/98	SUTTON	M 16529-2-2US

0212/0420

MICHAEL E WOODS  
TOWNSEND & TOWNSEND & CREW  
TWO EMBARCADERO CENTER  
8TH FLOOR  
SAN FRANCISCO CA 94111

NOT ASSIGNED

0000  
DATE MAILED:

04/20/99

**NOTICE OF ABANDONMENT UNDER 37 CFR 1.53(f) or (g)**  
**(Filing Date Granted)**

The above-identified application is abandoned for failure to timely or properly reply to the Notice to File Missing Parts (Notice) mailed on Nov. 6, 1998.

☒ No reply was received.

☐ The reply received on \_\_\_\_\_ was untimely.

☐ The reply received on \_\_\_\_\_ was improper. The reply did not include:

☐ 1. The surcharge under 37 CFR 1.16(e) required for filing the basic filing fee or oath or declaration on a date later than the filing date of a nonprovisional application.

☐ 2. The surcharge under 37 CFR 1.16(i) required for filing the basic filing fee or cover sheet on a date later than the filing date of a provisional application.

☐ 3. The full amount of the basic filing fee under 37 CFR 1.16 (a), (f), (g), (k).  
(Note: A nonprovisional application may not be relied on for benefits under 35 U.S.C. 120 and 37 CFR 1.78 unless the processing and retention fee set forth in 37 CFR 1.21(l) is paid within the one year period set forth in 37 CFR 1.53(f). A provisional application may not be relied on for benefits under 35 U.S.C. 119(e) and 37 CFR 1.78 unless the basic filing fee is paid).

☐ 4. The oath or declaration of all the inventors required under 37 CFR 1.63 for this nonprovisional application.

☐ The letter of Express Abandonment filed on \_\_\_\_\_ is acknowledged; however, the application is abandoned for failure to timely or properly reply to the Notice as indicated above.

A petition to the Commissioner under 37 CFR 1.137 may be filed requesting that the application be revived.

Under 37 CFR 1.137(a), a petition requesting the application be revived on the grounds of **UNAVOIDABLE DELAY** must be filed promptly after the applicant becomes aware of the abandonment and such petition must be accompanied by: (1) a statement that the entire delay was unintentional; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(m); and (4) a terminal disclaimer if required by 37 CFR 1.137(c).

Under 37 CFR 1.137(b), a petition requesting the application be revived on the grounds of **UNINTENTIONAL DELAY** must be filed promptly after applicant becomes aware of the abandonment and such petition must be accompanied by: (1) a statement that the entire delay was unintentional; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(m); and (4) a terminal disclaimer if required by 37 CFR 1.137(c).

Any questions concerning petitions to revive should be directed to "Office of Petitions" at (703) 305-9282.

C. Barnes

Customer Service Center  
Initial Patent Examination Division (703) 308-1202

EXHIBIT

D